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14 MAY 2007

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| In re Application of | : | DECISION ON |
| Cheng et al | : | |
| PCT No.: PCT/US04/10027 | : | |
| Application No: 10/551,661 | : | PETITION UNDER |
| Int. Filing Date: 01 April 2004 | : | |
| Priority Date: 01 April 2003 | : | |
| Attorney's Docket No.: 102907-437-NP | : | |
| For: ADVANCED VERSATILE LAYOUT AND | : | 37 CFR 1.47(a) |
| RENDERING SYSTEM, METHOD AND PRODUCT | : | |

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a) TO FILE ON BEHALF OF NONSIGNING INVENTORS" filed on 30 January 2007.

BACKGROUND

In a decision from this Office on 22 December 2006, the petition filed on 17 August 2006 was dismissed. The decision indicated that petitioner failed to meet requirements (2) and (4) under 37 CFR 1.47(a).

On 30 January 2007, petitioner submitted a renewed petition accompanied, inter alia, with a declaration from Patrice A. King.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has still not satisfied requirements (2) and (4) of 37 CFR 1.47(a).

Regarding requirement (2), as stated in the previous decision it is unclear if Mr. Fusion still resides in the last known address where the papers were mailed because no evidence has been submitted showing that he either received the papers or read his emails.

Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

If Mr. Fusion does not reside there, then petitioner is under an obligation to try to find or reach Mr. Fusion. Where there is an inability to find or reach a joint inventor "after diligent effort," petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under 37 CFR 1.47.

Regarding requirement (4), there has to be a statement that all the inventors (Cheng and Lee) have sign on the behalf of the nonsigning inventor in the declaration, and not just Mr. Cheng.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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